THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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Writ Petition No.1688 of 1996

Dated 29-07-2005

Between:

State of A.P. rep. by the

Forest Range Officer, Banswada,

Nizamabad District and another .. Petitioners.

And

Sri B.Gangadhar, S/o Neelakantam,

Aged 39 years, Occ:Business,

Lorry Owner, Lorry No.APK 8335,

R/o Jhandagally,

H.No.1-1414, Nizamabad District and others .. Respondents.

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ORDER:

No representation on behalf of both sides.

Aggrieved by the order of the second petitioner (Divisional Forest Officer, Nizamabad) compounding the offence alleged to have been committed by the first respondent on payment of Rs.25,861/- including fine, first respondent filed F.A.No.2

of 1992 before the District Judge, Nizamabad, on various grounds. Rejecting all the contentions of the first respondent, the learned District Judge, partly allowed the appeal by reducing the amount of fine from Rs.25,861/- to Rs.18,000/-. Aggrieved by the said reduction in the amount of fine, this petition is filed.

The only ground on which the order of the learned District Judge is challenged is that he is in error in reducing the quantum of fine.

Section 44 (2-E) of the A.P. Forest Act (the Act) provides a right of appeal against the order of the Divisional Forest Officer against the order of confiscation etc., and it empowers the District Court to pass such order as it may think fit after giving an opportunity of being heard to the parties. So, the order passed by the District Judge by virtue of the power vested in him under Section 44 (2-E) of the Act is a discretionary order. So, unless it is found that the exercise of discretion by the appellate authority is arbitrary, it cannot be interfered with by this Court.

Since there is no allegation that the order of the District Judge is arbitrary, I do not find any merits in this petition.

Accordingly, the Writ Petition is dismissed. No order as to costs.

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C.Y.SOMAYAJULU, J.

29th July, 2005

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